

1 Samuel Cohen
2 Federal Register Number 57613-112
3 FCI Terminal Island
4 Post Office Box #3007
5 San Pedro, California 90733-3007
6
7

FILED

DEC -3 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 SAMUEL COHEN;

12 Petitioner,

13 v.

14 UNITED STATES OF AMERICA,
15 UNITED STATES DEPARTMENT
16 OF JUSTICE,

17 Respondents.
18

CASE NO: CR-10-00547-001-
CRB

PETITIONER'S OBJECTION TO
THE ADMINISTRATIVE SETOFF
REQUEST AND ORDER DATED
OCTOBER 16, 2018, BASED
ON FAILURE TO PROVIDE
CONSTITUTIONAL NOTICE
AND OPPORTUNITY

19 SAMUEL COHEN, Petitioner herein, now submits
20 PETITIONER'S OBJECTION TO THE ADMINISTRATIVE SETOFF
21 REQUEST AND ORDER DATED OCTOBER 16, 2018, BASED ON FAILURE
22 TO PROVIDE CONSTITUTIONAL NOTICE AND OPPORTUNITY,
23 "PETITIONER'S OBJECTION." Petitioner submits this
24 PETITIONER'S OBJECTION with just cause and in good faith
25 based on the following discussion.
26

27 //

1 Samuel Cohen
2 Federal Register Number 57613-112
3 FCI Terminal Island
4 Post Office Box #3007
5 San Pedro, California 90733-3007
6
7

FILED

DEC -3 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 SAMUEL COHEN;

12 Petitioner,

13 v.

14 UNITED STATES OF AMERICA,
15 UNITED STATES DEPARTMENT
16 OF JUSTICE,

17 Respondents.
18

CASE NO: CR-10-00547-001-
CRB

PETITIONER'S OBJECTION TO
THE ADMINISTRATIVE SETOFF
REQUEST AND ORDER DATED
OCTOBER 16, 2018, BASED
ON FAILURE TO PROVIDE
CONSTITUTIONAL NOTICE
AND OPPORTUNITY

19 SAMUEL COHEN, Petitioner herein, now submits
20 PETITIONER'S OBJECTION TO THE ADMINISTRATIVE SETOFF
21 REQUEST AND ORDER DATED OCTOBER 16, 2018, BASED ON FAILURE
22 TO PROVIDE CONSTITUTIONAL NOTICE AND OPPORTUNITY,
23 "PETITIONER'S OBJECTION." Petitioner submits this
24 PETITIONER'S OBJECTION with just cause and in good faith
25 based on the following discussion.

26 //
27
28

DISCUSSION:

Petitioner contends he received the attached SETOFF REQUEST, Exhibit "A", on or about November 1, 2018. Therein, Petitioner was informed that an ORDER had either been issued or was being sought providing for a "setoff" in the amount of \$25,233.57. The SETOFF REQUEST/ORDER however fails to provide any compelling, necessary and Constitutional reasons for such a setoff. In addition, Petitioner contends that he was never provided any prior Constitutional NOTICE AND OPPORTUNITY of such SETOFF REQUEST/ORDER prior to the October 16, 2018 Exhibit "A" attachment. Consequently, Petitioner contends that he has been denied his Constitutionally required NOTICE AND OPPORTUNITY protections therein to submit any written opposition to that SETOFF REQUEST/ORDER, and which was purportedly initiated by the United States Department of Justice through the United States Attorney against Petitioner, by and through this judicial, and not an administrative case.

Consequently, Petitioner contends that he has been unconstitutionally DENIED his Constitutional NOTICE AND OPPORTUNITY Due Process protections, and that such SETOFF REQUEST/ORDER therefore cannot lawfully be enforced at this time. Petitioner respectfully MOVES this United States District Court in the Northern District of California to ORDER the Department of Justice by and

1 through the Office of the United States Attorney to
2 provide Petitioner NOTICE AND OPPORTUNITY on any subsequent
3 filing in such a manner that passes Constitutional
4 muster.

5 Under penalty of perjury pursuant to 28 U.S.C.
6 §1746, the foregoing is true and correct on this 28th
7 day of November, 2018.
8

9 Respectfully submitted,
10 

11
12 Samuel Cohen
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, SAMUEL COHEN, certify that on this 28th day of November, 2018, that I sent first class postage prepaid, or other delivery charges prepaid, by depositing said documents herein-listed with prison authorities at the Mail Room of the Federal Correctional Institution at Terminal Island, for mailing through the United States Postal Service, pursuant to Houston v. Lack, 487 U.S. 266, 270-271, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988) (holding that a Pro. Se prisoner's filing was deemed filed on the date of delivery to prison authorities for filing with the court), mailing copies of the foregoing:


PETITIONER'S OBJECTION TO THE ADMINISTRATIVE SETOFF REQUEST AND ORDER DATED OCTOBER 16, 2018, BASED ON FAILURE TO PROVIDE CONSTITUTIONAL NOTICE AND OPPORTUNITY

to the following individuals and/or entities:

Clerk of the Court	United States Attorney's Office
United States District Court	Phillip Burton Federal Building
Northern District of California	450 Golden Gate Avenue, 9th Floor
450 Golden Gate Avenue, 16th Fl.	San Francisco, California 94102
San Francisco, California 94102-3434	

I certify under the penalty of perjury that the foregoing

is true and correct, pursuant to 28 U.S.C. §1746 of the United States Code.



SAMUEL COHEN
Fed. Reg. No. 57613-112
Federal Correctional Institution
Terminal Island
Post Office Box #3007
San Pedro, California 90731-0207

EXHIBIT

“A”

California-Northern
450 Golden Gate Ave
9th floor
San Francisco, CA 94102

U.S. DEPARTMENT OF JUSTICE ADMINISTRATIVE OFFSET NOTICE

This communication is from the United States Department of Justice. All correspondence on this debt should be sent to the representative of the United States at the address to the left above.

For inquiries regarding debt call: 415-436-6970

DATE OF NOTICE	10/16/2018
ACCOUNT NUMBER	2012A50061/001
COURT NUMBER	CR 10-00547-001
BALANCE DUE	\$25,233.57
TAX ID NUMBER	XXXXXX-2536

Samuel Cohen (Fine Only), 57613-112
1299 Seaside Avenue
Reservation Point
Terminal Island, CA 90731-0207

NOTICE OF INTENT TO OFFSET

This office is responsible for collecting a debt you owe as a result of a judgment in favor of the United States. This debt may include additional costs, interest, penalties, and a surcharge which are not reflected in the amount shown above. A United States District Court entered a judgment against you and established the amount due. The District Court judgment is a final decision that you owe this debt to the United States.

We strongly urge you to pay this debt immediately. Make your payment payable to the Clerk of Court. Please include your court number on your payment.

If you do not pay your debt, Federal law allows agencies to refer debts to the United States Department of the Treasury for the purpose of collecting debts through the Treasury Offset Program. Under this program, the Department of the Treasury will reduce or withhold any of your eligible Federal payments (see list of federal payments eligible for offset on the back of this notice) by the amount of your debt. This "offset" process is authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, and the Internal Revenue Code. Under these statutes, prior to referring a debt for offset, a federal agency must: (1) notify the debtor who is responsible for the debt that the agency plans to refer the debt to the Department of the Treasury for the offset of any pending federal payments; (2) determine that the debt is past-due and legally enforceable after providing the debtor at least 60 days in which to present evidence to the contrary; and (3) make reasonable efforts to collect the debt. The purpose of this notice is to meet these requirements.

To avoid referral of your debt to the Treasury Offset Program, within 60 calendar days from the date of this notice you must: (1) pay your debt in full; or (2) enter into a repayment agreement; or (3) present evidence that all or part of the criminal or
(Continued on Back)

Please detach and enclose bottom portion with payment

Payment must be received by the PAYMENT DUE Date in order for your payment to be applied before the next billing cycle.

Administrative Offset Notice

Account Number	2012A50061/001
Name	Samuel Cohen (Fine Only)
Court Number	CR 10-00547-001
Payment Due Date	Immediately
Total Amount Due	\$25,233.57
Amount Enclosed	

Please mail payments to:
U.S. District Court Attn: Financial Sec.
PO Box 36060, 450 Golden Gate Ave Flr 16
San Francisco, CA 94102

☐ Check here for change of address and annotate below.

57613-112

NOTICE OF INTENT TO OFFSET (Continued from front)

the civil judgment debt is not past due or that the judgment debt has been stayed or satisfied. You must send any evidence to the Department of Justice, United States Attorney's office address on this notice. Any false statements could subject you to applicable civil or criminal penalties. The United States Attorney's office Financial Litigation Unit will review any evidence you present and take appropriate action.

If you fail to take any of the above steps within the 60 day time period, the Department of Justice will refer the debt to the Department of the Treasury and any and all payments due to you from the Federal government will be offset to pay the amount of your judgment debt. You should be aware that any money offset from federal payments due to you will be applied to the amount you owe along with a servicing fee. You are responsible for paying any remaining balance after an offset is taken. If you fail to do so, your name will continue to be included in the Department of the Treasury database of debtors, and any future federal payment due to you will be offset until the debt is totally satisfied.

PLEASE NOTE: If you are currently on a payment plan and you default on this payment plan, this debt may be submitted to the Department of the Treasury for inclusion in the Treasury Offset Program. You will not receive another notice from this office.

Payments eligible for offset include:

- * Federal income tax refunds;
- * Federal salary pay, including the military
- * Federal retirement pay, including military retirement pay;
- * Certain federal benefit payments, such as Social Security, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits (when regulations are published); and
 - * Other federal payments, including certain loans to you that are not exempt from offset.
 - * Payments made by States

ADDITIONAL INFORMATION**ARE YOU A FEDERAL EMPLOYEE, MEMBER OF THE ARMED FORCES (INCLUDING CIVILIAN EMPLOYEES)?**

If so, amounts from your salary and retirement pay may be offset to satisfy your debt beginning in the pay period that your debt is submitted to the Department of the Treasury for offset, and continuing every pay period until your debt, including interest, penalties and other costs, is paid in full. In accordance with Section 5514 of Title 5, United States Code, you may be entitled to a hearing to dispute the amount of the payroll deduction.

Active duty service members may have limited protections under the Servicemembers Civil Relief Act of 2003.

ARE YOU MARRIED? If so, your spouse may be eligible to receive a portion of a joint refund. To do this, the following must be true:

1) you must file a joint income tax return; 2) you must have incurred this debt separately from your spouse and your spouse must have no legal responsibility for the debt; and 3) your spouse must have income and withholding or estimated tax payments. Taxpayers filing joint returns should obtain Form 8379, Injured Spouse Claim and Allocation, before filing a return. The instructions will explain the steps your spouse may take to obtain his/her share of your joint income tax refund.

HAVE YOU FILED FOR BANKRUPTCY? If so, then you may not be subject to offset while the automatic stay remains in effect. However, you should notify the United States Attorney's Financial Litigation Unit of your bankruptcy.